

# Advisory Opinion

IECDB AO 2006-02

March 30, 2006

TO ALL INTERESTED PERSONS:

Pursuant to Iowa Code section 68B.32A(11) and rule 351—1.2, the Iowa Ethics and Campaign Disclosure Board issues this opinion on the filing of campaign reports prior to a statement of organization being filed. The Board's jurisdiction is limited to the application of Iowa Code chapters 68A and 68B, Iowa Code section 8.7, and rules in Iowa Administrative Code chapter 351. Advice in a Board opinion, if followed, constitutes a defense to a subsequent complaint based on the same facts and circumstances.

OPINION: The issue has been raised concerning whether or not a campaign disclosure report is required to be filed when the cutoff date for reporting campaign activities on the next report due date falls within the ten-day window of a new committee exceeding the financial activity threshold and being required to file a statement of organization registering the committee with the Board.<sup>1</sup>

Iowa Code section 68A.201(1) states:

“Every committee, as defined in this chapter, shall file a statement of organization within ten days from the date of its organization. Unless formal organization has previously occurred, a committee is deemed to have organized as of the date that the committee transactions exceed the financial activity threshold established in section 68A.102, subsection 5 or 18.”

Iowa Code section 68A.402(1), in pertinent part, states:

“Each committee shall file with the board reports disclosing information required under this section on forms prescribed by rule.”

The statute then sets out the required campaign disclosure due dates for each type of campaign committee. The statute also sets out the date to be used as the cutoff date for the reporting of campaign activities.<sup>2</sup>

In applying the language of Iowa Code section 68A.201(1), a committee is required to file a statement of organization within ten days of exceeding the financial activity threshold. However, the committee is deemed to have been organized “as of the date” that the financial activity threshold was exceeded. It is clear from the language of the statute that a committee is organized and exists as a lawful entity when it exceeds the financial activity threshold, not when a statement of organization is filed. Thus, a “committee” exists on the day that the financial activity threshold is exceeded.

As Iowa Code section 68A.402(1) requires “each committee” to file a campaign disclosure report on or before the required due date, a committee that has exceeded the financial activity threshold prior to the cutoff date for disclosing campaign transactions is required to file a campaign disclosure report on the statutory due date. This is true regardless of whether the cutoff date falls within the ten-day window for the filing of a statement of organization.

In closing the Board notes that the financial activity thresholds in Iowa Code sections 68A.102(5) and 68A.102(18) are exceeded on the day that any of the following happens:

1. Contributions are received in excess of the threshold; or
2. Expenditures are made in excess of the threshold; or
3. Debts are incurred in excess of the threshold.<sup>3</sup>

#### BY DIRECTION AND VOTE OF THE BOARD

James Albert, Board Chair  
Janet Carl, Vice Chair  
Gerald Sullivan  
Betsy Roe  
John Walsh  
Patricia Harper

Submitted by: W. Charles Smithson, Board Legal Counsel

---

<sup>1</sup> As of the date of this opinion the financial activity threshold is \$750.

<sup>2</sup>For example: during an election year a candidate for statewide or legislative office is required by law to file a campaign report on May 19 that covers the time period of January 1 through May 14 of that year.

<sup>3</sup>Pursuant to Board rule 351—4.16(2), the date a debt is incurred is the “date on which the committee committed to obtaining the good or service underlying the obligation. This date may be earlier than the date the provider of the good or service issues a bill to the committee.”